

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	
)	
)	

COMMENTS OF GENERAL COMMUNICATION, INC.

I. INTRODUCTION

General Communication, Inc. ("GCI") is an integrated telecommunications provider primarily serving the State of Alaska. GCI is the service provider for services supported by the Schools and Libraries Universal Service Support Mechanism (hereinafter "S&L Program" or "Program") to 172 different schools in Alaska and 8 schools in other states. As an active service provider in the S&L Program, GCI is very familiar with the program and has a great interest in its efficient and cost effective operation.

GCI has also witnessed, first-hand, the incredible success of the S&L Program. The Program has brought high-quality Internet services to many schools in remote, rural areas in Alaska. The educational value of these services is incalculable. In many instances, no Internet service whatsoever existed in the rural villages prior to the S&L Program, and the Program has stimulated demand for private, community wide services, promoting better education and opportunity for the entire community.

GCI applauds the Commission for its consideration of proposals designed to further improve the Program. GCI offers the following brief comments on various issues raised by the Commission's Notice of Proposed Rulemaking.

II. DISCUSSION

A. **The proposal for a pre-approved list of products and services should not be adopted.**

The Commission seeks “proposals for changes that will improve the operation of the eligibility determination process in terms of efficiency, predictability, flexibility, and administrative cost.” (NPRM, ¶ 14.) One possibility discussed by the Commission would be to establish a computerized list accessible online, whereby applicants could select the specific, pre-approved product or service as part of their application.

GCI does not believe that it would be efficient or administratively feasible to establish a list of pre-approved services. The website of the S&L Program already has a “Eligible Services List” that lists categories of services with a brief description for each and the determination of whether the service is eligible or ineligible. The list provides significant guidance to applications.

The Eligible Services List has evolved considerably, almost constantly, since the beginning of the Program. The changes have reflected continuing improvements in the services and products available to applicants. At least in the areas served by GCI, there are very few products and services available today that were available in the exact same configuration when the Program began. Given the nature of the telecommunications industry, such change and improvement can be expected to continue at a rapid pace.

Thus, while the task of initially developing a list of eligible products and services for a pre-approved list might be achieved with some difficulty, the task of maintaining the pre-approved list would be virtually impossible. Evaluation of all products and

services in a timely manner in order to keep the list up-to-date would be time-consuming and expensive.

The resulting, pre-approved list would, almost inevitably, be incomplete and inadequate. This would likely have one or more adverse effects. Applicants might tend to select pre-approved products and services, even if better, more cost effective products and services were available. Administrative staff, having spent countless hours toward developing the pre-approved list, might be reluctant to approve other products or services not on the list. Alternatively, the administrative staff would find that the effort to develop the pre-approved list was largely wasted and that the necessity to review services and products on a individual case basis continues as before.

Furthermore, as presently stated in the introduction to the Eligible Services List, the eligibility of a product or service is not solely dependent on the item itself, but also on the use to which it is intended. If the intended use is relevant, as seems to be necessary and appropriate, it might not even be possible to develop a pre-approved list of products and services.

Perhaps a better approach would be to expand the description and guidance that is now provided on the Eligible Services List. The descriptions and guidance would enhance the ability of applicants to select only appropriate products and services, while maintaining much of the necessary flexibility of the current system.

In summary, while GCI acknowledges that the current system may not be ideal, it seems to be working and, more importantly, improving over time. GCI believes that

it is preferable to continue to improve the existing system incrementally rather than discarding it in favor of a pre-approved list. A pre-approved list would likely be counterproductive to the goals of efficiency and fairness.

B. The Commission should not relax the “educational purposes” requirement in order to broaden the eligibility of wireless services.

GCI believes that the Program rules should be technology neutral so long as a proposed product or service is used solely for educational purposes. However, the eligibility rules should not be broadened so that, for example, wireless services to school bus drivers and security guards are eligible for support.

The S&L Program already receives significantly more requests for support than it is able to fund, even with the current “educational purposes” requirement. If the requirement were relaxed, then funds currently directed solely to educational purposes would be diverted to other uses. Such dilution of the Program is not desirable.

Opening the eligibility criteria to fund cellular service to school buses for the sake of student safety would open up an entirely new set of service for eligibility. Outside of cellular coverage areas, it would seem that base stations and radios for buses would be eligible. It would also seem that children walking to school, rather than taking a bus, would be eligible for radios or cellular service. Furthermore, alarm systems and closed circuit televisions to monitor safety within the school might become eligible.

While all such expansions of eligibility would clearly provide some benefits, and while such expansion might be desirable if funding were adequate, these uses of limited funds are not as important as uses truly limited to “educational purposes.” GCI urges the Commission not to relax that criteria.

C. The Commission should not require certification of the American with Disabilities Act as a condition of eligibility.

The proposal that applicants certify compliance with the Americans with Disabilities Act (“ADA”) as a condition of eligibility should not be adopted. While the ADA—like numerous other laws, such as those governing Equal Employment Opportunity—promote important objectives and deserve rigorous enforcement through appropriate means, GCI believes that any attempt to enforce such laws through the S&L Program is severely flawed, as described below.

For example, an applicant that certifies compliance with the ADA might still be subject to a funding challenge by some “interested person” claiming that the applicant does not comply with the ADA. Many issues of ADA compliance are enormously complex and require resolution by the courts, even the United States Supreme Court. Determinations of compliance require expertise far beyond that held by S&L Program personnel, and it unclear how a dispute over compliance could be resolved by either the Program administrator or the Commission. It would also seem impossible for the Program administrators to monitor applicant compliance on any reasonable, cost effective basis.

The possible remedy in the event an applicant were determined not to be in compliance with the ADA is also unclear. In cases of ineligibility, funding is generally denied. In many cases, particularly with appeals, a final determination of eligibility may not be made until long after products or services have been provided. In this instance, a service provider would be absolutely innocent and unaware of the applicant's failure to comply with the ADA, yet might ultimately bear the burden of ineligibility if the applicant is unable to pay for services without discount. In other words, an innocent service provider, not the applicant, would be punished by a denial of funds.

For these reasons, GCI urges the Commission not to require a certification of compliance with the ADA as a condition of program eligibility.

D. With limited exceptions, the option to use the Billed Entity Applicant Reimbursement (BEAR) form should be left to the applicant.

In general, GCI believes that the option of using the BEAR form or discounted billing is appropriate and that the final decision of which option to choose should be left with the applicant. As the service provider to numerous schools, as discussed above, GCI has extensive experience with this matter and believes that leaving the option with the applicant is generally satisfactory.

There are, however, limited circumstances in which applicants should be required to submit BEAR forms. First, if the applicant is billed along with non-eligible

entities (as when a school or library is billed together with a larger billing to a city), the burden of calculating the discount must fall on the eligible entity, not the provider. In these cases, the provider may not have the information necessary to separate eligible from ineligible costs. Second, if the amount of the annual funding commitment for a particular applicant falls below a minimum level, such as \$5,000, then the burden of calculating the discount may not be economically reasonable to place on the service provider. There is significant cost associated with tracking the billing and calculating costs and discounts, and these costs could be excessive in the case of small contracts.

Thus, with two limited exceptions, the options should remain and the applicant should be given the authority to select the appropriate option. In the two limited exceptions, the applicant should be required to use the BEAR form.

E. With minor modification, the proposal to expand the use of “excess” service in remote areas, when not being used by the school, should be adopted.

The proposal to expand the limited waiver that was granted to the State of Alaska so that eligible services can be used for other than educational purposes when the schools is closed should be adopted, with minor modifications. GCI actively participated in the proceeding involving the waiver granted to the State of Alaska, and GCI is the service provider in many remote Alaskan locations where the waiver is in effect. GCI supported the waiver granted to the State of Alaska and believes similar use should be allowed in other remote areas, with minor modifications.

The following additional conditions should be added to the proposed conditions specified in Paragraph 46: 1) no additional burden is placed on the service provider due to the after-school use of the services; 2) the provider of after-school service may not access or alter any equipment provided or maintained by the service provider of the eligible, discounted services; 3) after-school services may not continue more than six (6) months following the introduction of local, non-usage based Internet service in the community at rates comparable to the rates in the nearest urban area.

The foregoing conditions are necessary and appropriate for two reasons. First, the eligible services provider should not be harmed by any additional, non-educational use. Second, the after-school use should not become a permanent substitute for a commercial Internet services in locations where sufficient demand, and new technologies, enable the provision of non-subsidized services at reasonable rates.

F. The time limit filing of appeals should be increased from 30 days to 60 days.

GCI agrees with the proposal to increase the time for the filing of appeals from 30 days to 60 days. The current timeframe is extremely short and, as explained by the Commission, expanding the timeframe will allow applicants a greater opportunity to review their situation to determine if an appeal is appropriate. The result will be that meritorious appeals will not be dismissed solely because they could not be filed within 30 days, and at least some less than meritorious appeals will never be filed.

III. CONCLUSION

GCI fully supports the S&L Program and the Commission's efforts to improve the program and make it more efficient. GCI requests the Commission to consider the foregoing comments on the issues raised in this matter.

Respectfully submitted,

GENERAL COMMUNICATION, INC.

/s/

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